

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA,
Plaintiff,

v.

1.839 ACRE OF LAND, MORE OR LESS,
SITUATE IN STARR COUNTY, STATE OF
TEXAS, THELMA R. PEREZ, *et al.*,
Defendants.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. 7:20-cv-00380

**JOINT STIPULATION AND MOTION FOR ORDER ESTABLISHING JUST
COMPENSATION, GRANTING POSSESSION, DISBURSING FUNDS ON DEPOSIT IN
THE REGISTRY OF THE COURT, AND CLOSING CASE**

1. On November 23, 2020, the United States filed a Complaint in Condemnation¹ and Declaration of Taking² to acquire a fee simple interest in real property identified as Tract RGV-RGC-9072 (hereafter “Subject Property”) for purposes of the border fence infrastructure project.³ On December 7, 2020, the United States deposited \$14,341.00 into the Registry of the Court as estimated just compensation for the acquisition of the Subject Property⁴. Accordingly, on December 7, 2020—the date of taking—title in the Subject Property vested in the United States, as did the right to just compensation in landowner THELMA R. PEREZ.

2. **Ownership:** On July 1, 2021, the Court held a title hearing to determine who among thirty Defendants with a potential interest in Tract RGV-RGC-9072 are entitled to just compensation.⁵ Based on the evidence before it, the Court entered an Order on July 19, 2021⁶, finding that Defendant THELMA R. PEREZ held “a one-hundred percent fee simple interest in

¹ Dkt. No. 1.

² Dkt. No. 2.

³ Schedules “C”, “D”, and “E”, Dkt Nos. 1-1 at 6-13; 2-1 at 6-13.

⁴ Dkt. No. 9 at 1.

⁵ Dkt. No. 49 at 1.

⁶ Dkt. No. 73

the Subject Property subject to Starr County's \$2,415.15 ad valorem tax lien.”⁷

3. The United States and the undersigned THELMA R. PEREZ (collectively, hereafter “the Parties”) now make this joint stipulation and motion for entry of an Order: (a) establishing Fourteen Thousand, Three Hundred Forty-One and 00/100 Dollars (\$14,341.00) as the total just compensation for the fee interest, described in Schedule “E” of the Complaint in Condemnation and Declaration of Taking, in Tract RGV-RGC-9072 (b) granting the United States immediate possession of Tract RGV-RGC-9072; (c) disbursing the stipulated amount of just compensation, as directed below, from the funds on deposit in the Registry of the Court; and (d) closing this case on the Court's docket. As grounds for this motion, the Parties jointly state the following:

- a. The Parties confirm and agree that the full and just compensation payable by the United States for the taking of Tract RGV-RGC-9072 shall be the sum of Fourteen Thousand, Three Hundred Forty-One and 00/100 Dollars (\$14,341.00), plus any accrued interest, which sum is all inclusive and in full satisfaction of any claims of whatsoever nature by the undersigned THELMA R. PEREZ against the United States for the institution and prosecution of the above-captioned action.
- b. The Parties respectfully request judgment be entered against the United States in the amount of Fourteen Thousand, Three Hundred Forty-One and 00/100 Dollars (\$14,341.00) plus any accrued interest for the taking of Tract RGV-RGC-9072.
- c. On December 7, 2020, the United States deposited a check in the amount of Fourteen Thousand, Three Hundred Forty-One and 00/100 Dollars (\$14,341.00) into the Registry of

⁷ Dkt. No. 73 at 9.

the Court.⁸ The Parties agree that upon said deposit, title to Tract RGV-RGC-9072 vested in the United States by operation of law.

- d. The United States shall be entitled to immediate possession of Tract RGV-RGC-9072, and all persons in possession or control of the interests taken in this property should be ordered by the Court to surrender possession of same to the United States, to the extent of the estate being condemned⁹:

The estate taken is fee simple, subject to existing easements for public roads and highways, public utilities, railroads, and pipelines; and subject to all interests in minerals and appurtenant rights for exploration, development, production and removal of said minerals;

Excepting and excluding all interests in water rights and water distribution and drainage systems, if any, provided that any surface rights arising from such water rights or systems are subordinated to the United States' construction, operation and maintenance of the border barrier.

- e. There are outstanding delinquent *ad valorem* taxes or assessments owing as to Tract RGV-RGC-9072 under the following account¹⁰:

Account Number: **0041931** in the amount of **\$2,415.15** (as of December 2020) owed to Defendant Ameida Salinas, Starr County Tax Assessor-Collector.

The total sum of Fourteen Thousand, Three Hundred Forty-One and 00/100 Dollars (\$14,341.00), with accrued interest, shall be subject to all taxes, liens, encumbrances, and charges of whatsoever nature existing against the interests in the property taken in this proceeding at the time of vesting of title in the United States, and all such real estate taxes, liens, encumbrances, and charges of whatsoever nature shall be payable to and deductible from this amount.

⁸ Dkt. No. 6 at 1.

⁹ Dkt. No. 2-1 at 13, Schedule "E."

¹⁰ See Dkt. Nos. 64-28 at 1; 73 at 9.

- f. The stipulated just compensation remains on deposit in the Court's Registry. The Clerk of Court shall now, without further order of the Court, disburse the total sum of **Fourteen Thousand, Three Hundred Forty-One and 00/100 Dollars (\$14,341.00), along with any accrued interest earned thereon while on deposit**, payable to the order of
- i. **\$2,415.15** to Starr County Tax Office; and
 - ii. **\$11,925.85** with accrued interest, to THELMA R. PEREZ.
- g. Defendant THELMA R. PEREZ was the sole owner of the Subject Property taken in this proceeding on the date of taking; (b) that the Defendant has exclusive right to the compensation, herein; excepting the interests of parties having liens, leases, encumbrances of record, and unpaid taxes and assessments, if any; and (c) that no other party is entitled to the same or any part thereof by reason of any unrecorded agreement.
- h. In the event that any other party is ultimately determined by a court of competent jurisdiction to have any right to receive compensation for the interest in the property taken in this proceeding, THELMA R. PEREZ shall refund into the Registry of the Court the compensation distributed herein, or such part thereof as the Court may direct, with interest thereon at an annual rate provided in 40 U.S.C. § 3116 from the date of receipt of the respective deposit by THELMA R. PEREZ, to the date of repayment into the Registry of the Court.
- i. THELMA R. PEREZ and AMEIDA SALINAS, STARR COUNTY TAX ASSESSOR-COLLECTOR shall be responsible for their own legal fees, costs, and expenses, including attorney fees, consultant fees, and any other expenses or costs.
- j. There being no outstanding taxes or assessments due or owing on Tract RGV-RGC-9072, THELMA R. PEREZ is responsible for the payment of any additional taxes or assessments

which THELMA R. PEREZ otherwise owes on the interest in the property taken in this proceeding on the date of taking.

- k. THELMA R. PEREZ shall take no appeal from any rulings or judgments made by the Court in this action, and the Parties consent to the entry of all motions, orders, and judgments necessary to effectuate this stipulated judgment.
- l. THELMA R. PEREZ shall save and hold harmless the United States from all claims or liability resulting from any unrecorded leases or agreements affecting the interest in the property taken in this proceeding on the date of taking.
- m. This joint stipulation and motion is binding on the heirs, trustees, executors, administrators, devisees, successors, assigns, agents, and representatives of THELMA R. PEREZ.
- n. The Parties request that the Court enter an order closing this case on the Court's docket.

FOR DEFENDANTS:


THELMA R. PEREZ

Mission, TX 78574
Landowner Defendant

AMEIDA SALINAS
STARR COUNTY TAX ASSESSOR-
COLLECTOR
100 N. FM 3167, Suite 201
Rio Grande City, TX 78582
(956) 716-4800 (Telephone)
(956) 716-8170 (Facsimile)
Starrtax@co.starr.tx.us

FOR PLAINTIFF:

JENNIFER B. LOWERY
Acting United States Attorney
Southern District of Texas

By:


BALTAZAR SALAZAR
Assistant United States Attorney
S.D. Tex. No. 3135288
Texas Bar No. 24106385
600 E. Harrison Street, Suite 201
Brownsville, Texas 78520
Tel: (956) 983-6057
Fax: (956) 548-2775
Email: Baltazar.Salazar@usdoj.gov
Attorney-in-Charge for Plaintiff
United States of America

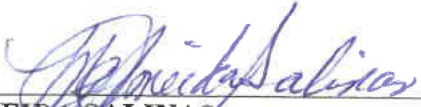
which THELMA R. PEREZ otherwise owes on the interest in the property taken in this proceeding on the date of taking.

- k. THELMA R. PEREZ shall take no appeal from any rulings or judgments made by the Court in this action, and the Parties consent to the entry of all motions, orders, and judgments necessary to effectuate this stipulated judgment.
- l. THELMA R. PEREZ shall save and hold harmless the United States from all claims or liability resulting from any unrecorded leases or agreements affecting the interest in the property taken in this proceeding on the date of taking.
- m. This joint stipulation and motion is binding on the heirs, trustees, executors, administrators, devisees, successors, assigns, agents, and representatives of THELMA R. PEREZ.
- n. The Parties request that the Court enter an order closing this case on the Court's docket.

FOR DEFENDANTS:

THELMA R. PEREZ

Mission, TX 78574
Landowner Defendant


AMEIDA SALINAS
STARR COUNTY TAX ASSESSOR-
COLLECOR
100 N. FM 3167, Suite 201
Rio Grande City, TX 78582
(956) 716-4800 (Telephone)
(956) 716-8170 (Facsimile)
Starrtax@co.starr.tx.us

FOR PLAINTIFF:

JENNIFER B. LOWERY
Acting United States Attorney
Southern District of Texas

By:

BALTAZAR SALAZAR
Assistant United States Attorney
S.D. Tex. No. 3135288
Texas Bar No. 24106385
600 E. Harrison Street, Suite 201
Brownsville, Texas 78520
Tel: (956) 983-6057
Fax: (956) 548-2775
Email: Baltazar.Salazar@usdoj.gov
Attorney-in-Charge for Plaintiff
United States of America

CERTIFICATE OF SERVICE

The undersigned certifies that he served a true and correct copy of the foregoing Joint Stipulation and Motion for Order Establishing Just Compensation, Granting Possession, Disbursing Funds on Deposit in the Registry of the Court, and Closing Case on all parties in this case via regular mail on August 2-3, 2021.

By: s/Baltazar Salazar
BALTAZAR SALAZAR
Assistant United States Attorney